UNITED NATIONS

Case No.: MICT-25-135-AR14.1

International Residual Mechanism for Criminal Tribunals

Date: 8 December 2025

Original: English

BEFORE THE APPEALS CHAMBER

Before: **Judge Graciela Gatti Santana, Presiding**
Judge Claudia Hoefer
Judge Margaret M. deGuzman

Registrar: **Mr. Abubacarr Tambadou**

IN THE MATTER OF PETER ROBINSON

PUBLIC

APPEAL BRIEF REGARDING DECISION TO REFER THE CASE

Amicus Curiae

Mr. Kenneth Scott

United States of America

Mr. Peter Robinson

State Bar of California

Chief Trial Counsel

The *Amicus Curiae* in the case titled *In the Matter of Peter Robinson* ("*Amicus*") respectfully files this appellant's brief concerning the Single Judge's "Decision on the Suitability of Referral of the Case" issued on 7-November-2025, pursuant to Mechanism Rule 14(E).

I. BACKGROUND

1. This case originates from the major *Nzabonimpa* contempt case. In that case, Judge Joensen established that a massive criminal scheme including "repeated acts involving multiple witnesses spanning nearly three years" had been implemented, making it "amongst the most brazen efforts to interfere with the administration of justice before an international tribunal".[1]

2. The criminal obstruction of justice scheme in *Nzabonimpa* concerned the review of Augustin Ngirabatware's convictions for genocide. Ngirabatware's review case was based on the purported recantations of their testimony by the four main prosecution witnesses on which Ngirabatware's convictions were based, recantations which were either rejected as not credible or reliable, or renounced during the review case.[2] The criminal scheme involved "clandestine communications with key witnesses subject to protective measures", "instructions provided on what to say to judicially accountable agents investigating the case [and 'in relation to meetings with the parties or the WISP'] and/or to the Judges who might review Ngirabatware's convictions" and actions "to manipulate and improperly influence potential witness evidence", including the payment of significant bribes.[3]

3. For more than two years, Peter Robinson was counsel for Ngirabatware for the purpose of his review case.[4] Robinson investigated, prepared and put in motion Ngirabatware's review case, and was in charge of it.

4. In *Nzabonimpa*, Judge Joensen found that Dick Prudence Munyeshuli, Robinson's investigator for the *Ngirabatware* review proceedings, had, at Robinson's direction, prohibited

---

1 Judgement, paras.398.

2 Judgement, para.332; Review Judgement, paras.6, 44, 57.

3 Judgement, paras.332-333, 338.

4 Indictment, para.2.

contacts with the four purported recanting witnesses in violation of protective measures specifically entered in the review case. Judge Joensen determined that Munyeshuli did not contact witnesses on his own initiative, but "was instructed to do so by Robinson", noting that Robinson had previously given Munyeshuli similar instructions.[5] The Appeals Chamber convicted Munyeshuli, acting at Robinson's instruction, of contempt and sentenced him to five months' imprisonment.[6]

5. On the same day that the written Trial Judgement in *Nzabonimpa* was issued, Judge Joensen referred a matter to the President, stating that in the course of his preparation of the Trial Judgement, he found that "the record before [him] raises grave concerns of repeated professional and ethical lapses on the part of Robinson while acting as Ngirabatware's counsel as well as reason to believe that he may be in contempt of the Mechanism." Judge Joensen referred the matter to the Mechanism's President "so that another Single Judge can independently assess whether or not [criminal] proceedings under Rule 90 of the Rules or other appropriate disciplinary action against Robinson (...) is warranted".[7] An investigation was initiated and *Amicus* was appointed "to investigate whether Robinson interfered with the administration of justice – or should otherwise be professionally sanctioned or denied audience".[8]

6. On 25-February-2025, following *Amicus*' investigation which identified thirty-four violations by Robinson, sometimes involving multiple protected witnesses, the investigating and charging Mechanism judge, Judge Solaesa, determined that criminal charges, rather than disciplinary action, were the necessary and appropriate avenue to address Robinson's most serious misconduct.[9] In deciding which of the numerous violations to subject to criminal proceedings, Judge Solaesa considered "the nature and seriousness" of the violations, which

---

5 Judgement, paras.356, 365 & fn.986 (emphasis added).

6 Appeals Judgement, para.115.

7 20-September-2021 Order, p.3 (emphasis added)

8 8-October-2021 Order, p.1; 25-October-2021 Order, p.1.

9 Judge Solaesa also decided that other conduct would be better addressed by disciplinary measures rather than criminal proceedings. 25-February-2025 Decision, paras.32, 37, 41.

he balanced against other factors, in particular the expenditure of resources and the fact that the Mechanism was to be a "small, temporary and efficient structure, whose functions and size will diminish over time" ("25-February-2025 Decision").[10] Based on this careful balancing, investigating Judge Solaesa issued an Order in Lieu of Indictment, charging Robinson with serious criminal conduct based on eight violations of judicial orders ("Indictment").[11]

7. On 12-March-2025, Judge Chiondo Masanche, the Single Judge appointed to go forward with the criminal charges ("Single Judge"), ordered *Amicus* to file submissions on the suitability of referring the case to a State.[12] Following *Amicus*' submissions identifying Rwanda as the State with the most links to this case, but submitting that the case should be conducted before the Mechanism, Robinson responded that a referral to the United States ("USA") would be consistent with the Statute. *Amicus* replied that the USA has only minor links to the crimes charged but, in any case, the referral was not appropriate.[13]

8. On 13-May-2025, the Single Judge invited the USA to provide written submissions on its jurisdiction, willingness and preparedness to accept this case for trial.[14]

9. On 1-August-2025, the USA filed their submissions stating that it "has not identified a clear jurisdictional basis to criminally prosecute Mr. Robinson" and that even if it had, "it is highly likely that any applicable statute of limitations would bar initiation of such a prosecution". The USA said that the California State Bar, where Robinson moved to inactive status on 1-February-2018, informed that it "has jurisdiction and that it may be possible to refer this matter to appropriate disciplinary proceedings". The USA provided the contact information of the State Bar for a discussion on "the relevant requirements and arrangements" for referral. The USA indicated that following the California disciplinary proceedings, reciprocal discipline "may be pursued" by the North Carolina State Bar, where Robinson is

---

10 25-February-2025 Decision, paras.9, 24, 26, 28, 32.

.

11 Indictment.

12 12-March-2025 Order, p.2.

13 *Amicus* 26-March-2025 Submissions, paras.9-23; Robinson 9-April-2025 Submissions, paras.17-21; *Amicus* 15-April-2025 Submissions, paras.13-18.

14 Invitation for Submissions, p.3.

licensed and resides[15] ("USA Submissions") – yet an additional and speculative possibility, with no showing of preparedness or willingness to pursue such proceedings. *Amicus* and Robinson made further submissions based on the USA Submissions.[16]

10. On 7-November-2025, the Single Judge decided to refer the case solely to non-criminal local Bar disciplinary proceedings. Despite and contrary to Judge Joensen's well-informed decision after hearing the entire *Nzabonimpa* case to refer Robinson's conduct for the initiation of a criminal investigation, and Judge Solaesa's decision based on *Amicus*' entire investigation to initiate a criminal case rather than only disciplinary proceedings, the Single Judge, prior to any trial, decided that referring the case to non-criminal California State Bar proceedings instead of conducting the duly-initiated criminal proceedings before the Mechanism, would "adequately vindicate the Mechanism's interests" ("Decision").[17]

11. *Amicus* asks the Court to reverse the Decision to refer the case to non-criminal California Bar proceedings on the following grounds, as contrary to the applicable law and process in properly issuing and adjudicating the Mechanism's duly-brought criminal charges against Robinson's, going against the interests of justice and expediency, and preventing a sufficient vindication of the Mechanism's interests.

II. STANDARD OF APPEAL

12. In another Mechanism contempt case, the Appeals Chamber stated:

> Where an appeal is filed against a decision referring a case to a competent national jurisdiction for trial, the issue before the Appeals Chamber is not whether the decision was correct, in the sense that the Appeals Chamber agrees with it, but whether in reaching that decision the Single Judge has correctly exercised his or her discretion. The Appeals Chamber will only intervene with the decision of the Single Judge if the decision was based on a discernible error. To demonstrate such error, an appellant must show that the Single Judge: (i) misdirected him or herself as to the legal principles to be applied, or the applicable law; (ii) gave weight to irrelevant considerations or failed to give sufficient weight to relevant considerations; (iii) made an error as to the facts upon which the exercise

[15] USA Submissions, p.1 (emphasis added).

[16] *Amicus* 29-August-2025 Submissions; Robinson 29-August-2025 Submissions; Robinson 5-September-2025 Submissions; Amicus 5-September-2025 Submissions.

[17] Decision, para.16.

> of discretion relied; or (iv) the decision was so unreasonable and plainly unjust that the Appeals Chamber is able to infer that the Single Judge must have failed to exercise his or her discretion properly.[18]

III. THE GROUNDS OF APPEAL

GROUND 1: The Single Judge committed discernible errors by misdirecting himself on the applicable law by referring a criminal case for contempt initiated before the Mechanism to non-criminal State Bar disciplinary proceedings.

13. Any or all of the following errors show that the Single Judge misdirected himself as to the applicable law and failed to correctly exercise his discretion, because the referral of a Mechanism criminal case to State Bar disciplinary proceedings is against the law.

1. The Statute and Rules provide for the referral of a criminal case to criminal proceedings but not to State Bar disciplinary proceedings.

14. The Decision states at paragraph 13 that the Statute and Rules do not mandate that a referred criminal contempt case proceed as a criminal case. In fact, the following Statute and Rules do not allow for a criminal case to be referred to a local professional body for disciplinary proceedings, and require that a referred criminal case remain criminal. *Amicus* contends that it is both explicit and implicit that like should be treated as like, in that a criminal case must be referred and received as a comparable criminal case.

15. First, Article 6 of the Statute, providing for the Mechanism's power to refer cases, is titled "Referral of Cases to National Jurisdictions", and Article 12(1) provides for the assignment of a Judge or Chamber to consider a case referral "to a national jurisdiction". Similarly, Article 6(6) concerns the revocation of deferral prior to a verdict "by a national court" and Article 6(5) provides for the monitoring of cases referred to "national courts".

---

[18] Jojić and Radeta, para.13.

16. The Cambridge Dictionary defines "national" as: "relating to or typical of a whole country and its people, rather than to part of that country or to other countries".[19] The California State Bar is not a "national jurisdiction" and its disciplinary proceedings are not conducted before a "national court". The USA Submissions state: "state bar organizations license and regulate the conduct of attorneys subject to their jurisdictions and may investigate alleged misconduct and initiate appropriate administrative disciplinary proceedings"[20] Rule 47(D), allowing the Mechanism to communicate counsel misconduct to a state bar organization, describes such organization as "the professional body regulating the conduct of Counsel in the Counsel's State of admission" (emphasis added). The California State Bar is a professional body (not a national jurisdiction) that can regulate certain conduct of licensed attorneys through non-criminal administrative proceedings.

17. Second, Articles 1(4), 6(1) and 6(2) of the Statute give the Mechanism the power to refer cases to "the authorities of a State". Article 6(6) and Rule 14(3) of the *Rules* also concern the referral of a case to "State authorities" or "the authorities of a State". Rule 2 defines "State" as "a State Member or non-Member of the United Nations". In the two Mechanism contempt cases referred to date, the case file was transferred to "the Prosecutor's Office of Serbia" and "the Prosecutor's Office of Belgium".[21] In the present case, the Single Judge ordered the transmission of the case file to the Office of Chief Trial Counsel of the California State Bar – a professional body – and the Mechanism was invited to arrange the referral directly with the State Bar, independently from USA authorities.[22] This dramatically differs from a referral to State authorities who can seize a national court of criminal jurisdiction, such as a Prosecutor's Office who can seize a court competent to hear criminal cases.

18. Third, Article 6(1) and (2) talk of a referral of "the case" in which "an indictment has been confirmed" for core crimes or contempt (i.e., a criminal case), to state authorities with jurisdiction, preparedness and willingness "to accept such a case" (emphasis added). The

---

19 https://dictionary.cambridge.org/dictionary/english/national (emphasis added)

20 USA Submissions, p.1 (emphasis added).

21 Šešelj, p.10; F.Ngirabatware, p.5.

22 *See* the USA Submissions, p.1, where the Mechanism is invited to contact the Bar "to discuss the relevant requirements and arrangements" for referral.

referral of "such a case" is also mentioned at Rule 12(1). State authorities do not accept "the case" or "such a case", when they do not have jurisdiction to subject a Mechanism criminal case to criminal charges. The Robinson case, as charged, is not an administrative disciplinary case for misconduct.

2. The vindication of the Mechanism's interests can only be achieved through criminal sanctions.

19. The Decision states at paragraph 13 that a referral can be ordered if "the domestic process sufficiently vindicates the interests of the Mechanism", and adds: "there is no support that such vindication is exclusively achieved through criminal sanctions".

20. In concluding that criminal sanctions were not required, the Single Judge, citing Rule 90(G), stated that "the only express limitation is that the maximum penalty for contempt is a term of imprisonment not exceeding seven years, or a fine not exceeding 50,000 Euros or the equivalent thereof, or both", but these are plain references to criminal penalties. The Decision adds that Rule 90(I) permits a Judge, upon a guilty verdict of criminal contempt, may refer counsel's conduct to the counsel's bar association pursuant to Rule 47(D). As such, the Single Judge concluded that the potential sanctions following California Bar disciplinary proceedings "fall within the scope contemplated by the Mechanism".[23]

21. Contrary to the Single Judge's conclusion, the Statute and Rules do not only provide for an "express limitation" as to the "maximum penalty for contempt", but provide that contempt, if proven, must be addressed by imposing criminal sanctions. Had he found "support that such vindication is exclusively achieved through criminal sanctions", the Single Judge would have concluded that the State Bar disciplinary proceedings cannot properly or sufficiently vindicate the Mechanism's interests.[24]

22. Indeed, Article 22(1) of the Statute makes it clear that a term of imprisonment or a fine is mandatory: "The penalty imposed on persons covered by paragraph 4 of Article 1 of this

---

[23] Decision, para.13 (emphasis added).

[24] *Ibid*.

Statute [i.e., contempt] shall be a term of imprisonment not exceeding seven years, or a fine of an amount to be determined in the Rules of Procedure and Evidence [i.e. at Rule 90(G)], or both." (emphasis added) The Single Judge omitted to consider Article 22(1), rather assessing the maximum penalty of Rule 90(G) in isolation.[25] The Mechanism's Appeals Chamber, citing both Article 22(1) and Rule 90(G), has confirmed that a term of imprisonment or a fine, or both, is the mandatory penalty structure for contempt: "Pursuant to Article 22(1) of the Statute and Rule 90(G) of the Rules, the penalties that may be imposed on a person found guilty of contempt are a term of imprisonment not exceeding seven years and/or a fine not exceeding 50,000 euros."[26] It also confirmed that a Single Judge is obliged to enter a criminal conviction and impose a sentence if guilt is established.[27]

23. Therefore, the fact that Rule 90(I) allows a Judge convicting a counsel of contempt to additionally refer the matter to the counsel's bar association pursuant to Rule 47(D) does not change that upon a finding of guilt, a criminal conviction must be entered and criminal sanctions must be imposed. A finding of misconduct and communication to Robinson's Bar association are not an alternative to, but a possible addition to a criminal conviction and sanctions if and when the counsel is criminally convicted (*see* Rule 90(I) "may also determine", upon a finding of guilt).

3. A State of referral must have a legal framework criminalizing the accused conduct.

24. The Single Judge decided that the well-established jurisprudence of the ICTR, ICTY and Mechanism Appeals Chambers requiring that the State of referral has a legal framework criminalizing the charged conduct does not apply to contempt cases, but only to core crimes under Article 1(3). The Decision states that Article 6(2)'s language largely mirrors that of Rule 11*bis* of the ICTR/ICTY where only core crime cases could be referred, and that the Code of Conduct for the Defence provides that criminal acts and conduct prejudicial to the administration of justice can also constitute misconduct dealt with by a disciplinary panel.[28]

---

25 Decision, fn.34.

26 Appeals Judgement, para.64.

27 *See* Rule 104(C) and Appeals Judgement, paras.93-94 regarding contempt.

28 Decision, para.14 & fn.39.

25. The Single Judge's reasoning is erroneous, and the appellate jurisprudence should apply.

26. In the Appeals Judgement in the *Fatuma* case, the *Nzabonimpa* contempt case on appeal, the Chamber determined whether jurisprudence from core crimes cases applied to contempt cases by determining whether something suggested that the jurisprudence does not apply, starting with the presumption that it does.[29] In the present case, the relevant jurisprudence states: "In assessing whether a State is competent within the meaning of Rule 11*bis* of the Rules to accept a case from the Tribunal, a designated Trial Chamber must consider whether it has a legal framework which criminalizes the alleged conduct of the accused".[30] Nothing in the Statute or Rules suggests that a State of referral needs to be any less "competent within the meaning of Rule 11*bis* [Art.6(2) at the Mechanism]" to accept a contempt case than a core crimes case. Contrary to what the Single Judge found, the fact that Article 6(2) took the language in ICTR/ICTY Rule 11*bis* when the referral of contempt cases was added to the Mechanism's Statute supports equal and continuous treatment between core crimes and contempt, insofar as the need for a State to be "competent within the meaning" of Rule 11*bis* / Article 6(2) and the related obligation to proceed as a criminal trial is concerned. For example, in the referral decision in the Mechanism's *Šešelj* contempt case, the Judge noted that "the language adopted in Article 6(2) of the Statute is similar to the language in Rule 11*bis*(A) of the ICTY Rules and the ICTR Rules", when deciding to apply ICTY/ICTR core crimes jurisprudence in that contempt case.[31]

27. In fact, in the two Mechanism contempt cases that were referred to State authorities, the Single Judge complied with the appellate jurisprudence and established that the State where the case was referred had an "adequate legal framework criminalising" the accused conduct.[32]

---

29 "While this principle emanates from jurisprudence concerning the crimes covered by Article 1(1) of the Statute, the Appeals Chamber sees nothing to suggest that the obligation of a single judge to enter a conviction does not equally apply to the crime of contempt..." Appeals Judgement, para.94.

30 Hategekimana, para.4 (emphasis added) and jurisprudence cited therein, applied at the Mechanism, among others, in Munyarugarama, para.18.

31 Šešelj, fn.35.

32 F.Ngirabatware, p.4. *See* also Šešelj, para.12.

28. The Single Judge also erred when relying on the provisions of the Code of Conduct for Defence Counsel allowing for certain conduct to be the subject of disciplinary proceedings, as a basis to conclude that "criminalisation of the alleged conduct is [not] necessary". Indeed, the Code also states, at Article 32, or Article 28 in the Code's 2012 version cited in the Decision, that the disciplinary regime for the Defence does not "not affect the inherent powers of the Mechanism to deal with conduct which interferes with the administration of justice". And the referral of a case is to be considered "[a]fter an indictment has been confirmed" (emphasis added) in contempt or core crimes cases (i.e. criminal cases - *see* Arts. 6(1) and (2)), in order words when it is already determined that criminalisation of the accused conduct is necessary. Therefore, the fact that counsel's conduct can also be subject to disciplinary action does not mean that criminalisation of the conduct is not necessary once a charging authority determines it necessary to subject that conduct to a criminal indictment, following which indictment the referral of the case will be considered.

4. The Decision was ultra vires *since the Single Judge was not the charging authority.*

29. In the Decision, in assessing whether the referral sufficiently vindicates the Mechanism's interests, the Single Judge did not refer once to the Indictment or the fact that Robinson was already criminally charged for contempt.[33] Nor did he show any deference to the charging decision of the duly-appointed investigating and charging judge. This is despite the fact that *Amicus* dedicated a section of his referral submissions to the process that lead to this Indictment and the initiation of criminal proceedings, arguing that it was already determined that criminal proceedings are necessary to sufficiently vindicate the Mechanism's interests.[34] The Judge's omission to take into account the Indictment against Robinson is also shown by his conclusion that "criminalization of the alleged conduct is [not] necessary for referral in relation to allegations of contempt". The Decision cites the provisions of the Code of Conduct for the Defence providing for a disciplinary regime to address counsel's conduct,[35]

---

[33] The Decision only mentions the Indictment at the first paragraph of the "Background" section. *See* para.2.

[34] *Amicus* 5-September-2025 Submissions, paras.7-14.

[35] Decision, para.14 & fn.39.

as if Judge Solaesa had not already determined that some of Robinson's conduct should be subject to criminal proceedings rather than disciplinary action. At another occasion, the Judge went as far as considering whether the Mechanism's disciplinary proceedings could address Robinson's conduct, as if it was not Judge Solaesa's mandate to consider the appropriateness of such proceedings.[36] In short, the Single Judge substituted his judgement for that of the Mechanism official responsible for making the charging decision, effectively dismissing the criminal charges.

30. The Single Judge misconstrues the place of the referral procedure in the Mechanism legal framework. He was not the one responsible for determining the appropriate avenue to address Robinson's conduct. Judge Solaesa, who was the Mechanism's investigating and charging judge assigned pursuant to the process provided for in the law, already determined that criminal proceedings, rather than disciplinary action, was the appropriate avenue to address eight violations. Article 6(2) clearly states that the Mechanism can refer cases "[a]fter an indictment has been confirmed", but the Single Judge overlooked the Indictment and the detailed investigative process leading to its issuance.

31. Pursuant to the process under Rule 90, following Judge Joensen's referral, the President appointed Judge Solaesa "to assess whether further proceedings under Rule 90 (...) or other appropriate disciplinary action against [Robinson] are warranted".[37] *Amicus* was appointed to investigate Robinson's conduct with the same view of determining the appropriate means to address such conduct.[38] Judge Solaesa was aware of Robinson's position during the investigation that criminal proceedings were not the best way to address his conduct, in part because of "the availability of a disciplinary system at the Mechanism".[39] On 25-February-2025, Judge Solaesa, recalling his mandate to determine whether criminal proceedings or

---

36 Decision, para.16.

37 8-October-2021 Order, p.1.

38 25-October-2021 Order, p.1.

39 R76 Decision, para.15.

disciplinary action was warranted, criminally charged Robinson for eight violations pursuant to Rule 90(D), and referred four other areas of conduct to potential disciplinary measures.[40]

32. *Amicus* notes that Rule 90 was amended on 4-September-2025, adding requirements for the initiation of contempt investigations and proceedings pursuant to Rule 90(C) and (D), namely the "weighing [of] the gravity of the alleged offence and the efficient use of judicial resources".[41] In her 22-October-2025 address to the United Nations General Assembly, the Mechanism's President explained that these amendments aimed "to reduce prospective costs while ensuring that the interests of justice are not compromised."[42] Prior to these amendments, Judge Solaesa considered the gravity and efficient use of judicial resources in indicting certain violations.[43] In the words of the President, it was Judge Solaesa's mandate pursuant to Rule 90(D) to decide which of the two options, the initiation of criminal proceedings or disciplinary action, was necessary to ensure that the interests of justice are not compromised.

GROUND 2: The Single Judge committed discernible errors by concluding that the Mechanism's interests are sufficiently vindicated if the case is referred to the California State Bar for possible disciplinary proceedings, and by failing to conclude that the interests of justice weigh against the referral of the case to disciplinary proceedings in California.

33. In particular, the Single Judge made a decision that was so unreasonable and plainly unjust, including by failing to adequately consider relevant considerations and/or misdirecting himself as to the applicable law, when (a) concluding that the potential California Bar disciplinary sanctions are sufficient to address Robinson's conduct as charged; (b) concluding that the referral would adequately vindicate the Mechanism's interests in the criminal case; and (c) failing to conclude that the referral to disciplinary proceedings in California of the criminal case against Robinson goes against the interests of justice.

---

40 25-February-2025 Decision, paras.1, 32, 37, 41.

41 Amendments.

42 22-October-2025 Address, p.3 (emphasis added).

43 25-February-2025 Decision, para.9.

34. The Mechanism, ICTR and ICTY's Appeals Chamber each established that the State of referral must have a "penalty structure within the State [providing] an appropriate punishment for the offences for which the accused is charged".[44] This jurisprudence was followed in the Mechanism's *Šešelj* contempt case.[45] Subjecting contempt to an inadequate penalty structure constitutes an error of law since it fails to abide by that jurisprudence. While the Decision does not cite the above jurisprudence, it does conclude – erroneously – that the potential discipline by the California State Bar (and then the possible North Carolina bar action) is sufficient to address Robinson's conduct.[46] Even regardless of this jurisprudence, subjecting Robinson's conduct to proceedings with an inadequate penalty structure goes against the interests of justice, mentioned at Article 1(4) of the Statute, and will prevent the vindication of the Mechanism's interests.

35. As explained in Ground 1, at the Mechanism, a criminal conviction accompanied by a term of imprisonment, a fine or both, is a mandatory penalty for contempt if guilt is established. On the other side, the USA Submissions state that potential discipline for the violations of the provisions cited therein "ranges from reproval to probation to suspension to possible disbarment from the practice of law in California."[47] Similarly, in North Carolina where Robinson is licensed and resides, and where reciprocal discipline would have to be taken: "The purpose of professional discipline for misconduct is not punishment, (...) Lawyer discipline affects only the lawyer's license to practice law. It does not result in incarceration."[48] The State Bar penalty structure is therefore fundamentally different from that of the Mechanism for contempt.

36. In *Nzabonimpa*, Judge Joensen found that Munyeshuli -- at Robinson's direction – had prohibited contacts with protected witnesses.[49] The Appeals Chamber convicted Munyeshuli

---

44 Munyarugarama, para.18; Mejakić, para.48; Hategekimana, para.4, and jurisprudence cited therein.

45 Šešelj, para.12.

46 Decision, para.13. *See* also para.16.

47 USA Submissions, p.1.

48 NCRPC, Rule 8.04, Comment [3].

49 Judgement, paras.363, 365.

and sentenced him to five months' imprisonment.[50] Robinson's instruction that led to Munyeshuli's violation is the exact basis for one of the eight violations charged against Robinson. The referral makes it impossible for Robinson's conduct to be addressed similarly, if deemed appropriate at the end of trial.

37. In addition, regardless of the term of imprisonment and/or fine, a criminal conviction carries more weight, significance and consequences than a finding of misconduct in administrative disciplinary proceedings. For example, pursuant to Rule 42(A)(v), a counsel cannot represent an accused before the Mechanism if he has "been found guilty in relevant criminal proceedings", but pursuant to Rule 42(A)(iv), a counsel can still represent an accused when he has "been found guilty or otherwise disciplined in relevant disciplinary proceedings" if, at the Registrar's discretion, it "would be disproportionate to exclude such Counsel".

38. The penalty structure at the California State Bar is insufficient to address the eight violations of the Indictment in light of the gravity of the criminal charges here. Violating court orders in having prohibited contact with protected witnesses is not a small crime. Indeed, gravity was the primary consideration in Judge Solaesa's determination as to whether to subject Robinson's conduct to criminal proceedings rather than disciplinary action.[51] The gravity of the conduct is also explicitly mentioned in the amended *Rules* as one of the primary considerations when assessing whether to refer conduct to a Single Judge pursuant to Rule 90(C), and whether to initiate contempt proceedings pursuant to Rule 90(D). In another contempt case involving Defence Counsel, the ICTY Appeals Chamber confirmed that contemptuous conduct of a certain gravity, as determined by Judge Solaesa, is more appropriately dealt with as contempt than by subjecting it to disciplinary action.[52]

39. Gravity is also at the center of the determination of the sentence to impose upon a verdict of guilt. Article 22(3) explicitly mentions gravity, in a non-exhaustive list, as one of the two factors to consider when determining a sentence. The Single Judge recognized that a

---

50 Appeals Judgement, para.115.

51 25-February-2025 Decision, para.9.

52 Aleksovski, para.45.

sentence must be able to adequately address the gravity of the conduct, when concluding that the penalty for Mechanism disciplinary proceedings would be "insufficient to adequately address the seriousness of the allegations against Robinson."[53] In the closely-linked *Nzabonimpa* case, Judge Joensen stated, citing previous jurisprudence:

> I recall that, with regard to the crime of contempt, the most important factors to be taken into account in determining the appropriate sentence are the gravity of the contempt and the need to deter repetition and similar conduct by others. Contempt of the court is a grave offence, constituting a direct challenge to the integrity of the trial process, and it is necessary for general deterrence and denunciation to be given high importance in sentencing policies.[54]

40. In addition, the referral to State Bar administrative disciplinary proceedings goes against the need to adequately denounce and deter repetition of similar conduct, by failing to capture and address the gravity of contempt.

Disciplinary sanctions would have little to no effect.

41. California State Bar discipline does not constitute an adequate penalty for contempt. But even if it technically would, it would be insufficient and ineffective in actual practice.

42. The Single Judge failed to consider, when concluding at paragraph 13 of the Decision that disbarment or suspension of his license would sufficiently affect Robinson, that Robinson is near or at the end of his legal career given that he is 72 years old and any discipline would only take effect much later.[55] It would still take a long time for disciplinary sanctions to take effect following the arrangements for and transmission of the complex case file, the California investigation, the disciplinary proceedings, any appeal or other review, and the potential imposition of reciprocal discipline in North Carolina where Robinson is licensed and resides.

---

53 Decision, para.16.

54 Judgement, para.397 (emphasis added).

55 Robinson's 29-August-2025 Submissions, para.26.

<u>GROUND 3</u>: At paragraph 17 of the Decision, the Single Judge made discernible errors by failing to give sufficient weight to relevant considerations in relation to the interest of expediency, and on that basis concluding that the interest of expediency does not weigh against the referral of the case.

43. The Single Judge concluded that the interest of expediency does not weigh against the referral of the case. He provided no reasons for concluding that the very close nexus between this case and other major Mechanism/ICTR cases does not outweigh the Mechanism's alleged preference for referral.[56] In addition, in his referral submissions, *Amicus* outlined various elements regarding expediency that the Decision fails to address.[57]

44. The Single Judge failed to take into account or give sufficient weight to all relevant considerations regarding expediency. Had he given full consideration and proper weight to the elements outlined below, the Single Judge should have concluded that the interests of expediency clearly weigh against referral and, together with the interests of justice and other elements outlined in this brief, justify the case being conducted before the Mechanism.

45. Some of the following considerations are relevant to the interests of justice in addition to expediency.

1. North Carolina disciplinary sanctions can only be taken after the California proceedings.

46. The USA submissions inform that Robinson "moved to 'inactive' status with the California State Bar", and that he currently resides and is licensed in North Carolina. The USA explain: "<u>if</u> disciplinary penalties are imposed by the California State Bar, reciprocal disciplinary penalties <u>may</u> be pursued in North Carolina."[58]

---

56 Decision, para.17.

57 *See* considerations nos.1-3, 5-6 below.

58 USA Submissions, p.1 (emphasis added).

47. Given his inactive status in California, any sanction concerning Robinson's practice imposed there would have no practical effect. To have practical effect, reciprocal sanctions would have to be taken in North Carolina after the imposition of sanctions in California. In addition, the *Rules and Regulations of the North Carolina State Bar* ("RRNCSB") provides that a member of the Bar can challenge the imposition of reciprocal sanctions if deemed unwarranted.[59] A hearing may be held by the Grievance Committee in North Carolina prior to the imposition of reciprocal discipline.[60] The fact that two sets of proceedings are needed for discipline sanctions to affect Robinson's practice,[61] makes the referral less expedient.

2. The relevant requirements and arrangements for referral have not been discussed.

48. The USA submissions, insofar as the California State Bar is concerned, are very short. The California State Bar simply states that a referral of the case "may be possible", not that it is, and contact information of the California State Bar Office of Chief Trial Counsel is provided to discuss "the relevant requirements and arrangements".[62]

49. As detailed in Ground 4, any referral to the California State Bar would be delayed by a determination of the "relevant requirements" and whether they are fulfilled, in order to determine whether a referral is actually possible. The unknown "relevant arrangements" could also affect the disciplinary proceedings expediency.

3. California disciplinary proceedings could involve more violations.

50. Judge Solaesa tailored the Indictment's criminal charges considering his view of the nature and seriousness of Robinson's violations, balanced against various elements.[63] Judge Solaesa clearly selected eight serious violations to be addressed by criminal proceedings.

---

59 RRNCSB, Section .0120(b)(1).

60 *Ibid.*, Section .0120(d).

61 As argued in Ground 2, such sanctions may not affect Robinson's practice at all, given his age.

62 USA Submissions, p.1 (emphasis added).

63 25-February-2025 Decision, para.9.

51. By contrast, the California State Bar proceedings, if any, could address all thirty-four violations against Robinson.[64] While some of the violations not included in the Indictment are factually related to some that were included, the violations not included still rely on additional facts and evidence, and have different legal requirements than the violations criminally charged. These additional violations would make the California disciplinary proceedings more complex and protracted – less expedient. The following violations or other conduct could be implicated:

- Eleven violations for the unauthorized disclosure of witness identities, status, and information, not included in the Indictment in part because of the resources required to prosecute them. Judge Solaesa found that "Robinson's conduct under these violations falls well below the standard of professionalism and ethics required of the important role Defence counsel play in the administration of justice".[65]

- A prohibited contact with a protected witness not included in the Indictment because the Appeals Chamber already cautioned Robinson during the preparation leading to Ngirabatware's review case, "to exercise greater care when seeking to contact witnesses and to check the trial record accordingly."[66]

- Four violations for the disclosure of the contents of confidential decisions, not included in the Indictment partly because they are not "among the most serious allegations advanced";[67]

- Three violations for recording interviews/meetings with protected witnesses without leave, not included in the Indictment because Judge Solaesa interpreted the protective

---

64 The State of referral decides how to apply its laws to the facts of the case. Šešelj, paras.12, 16; Mejakić, para.45.

65 25-February-2025 Decision, paras.25-26.

66 *Ibid*., para.21 (emphasis added.)

67 *Ibid.*, para.24.

measure as applying to the public and media, but not Parties.[68] However, in a Decision regarding *Ngirabatware*'s review case, the Appeals Chamber interpreted such measure as applying to Robinson.[69]

- Three false statements to the Court, not included in the Indictment because it would use too many judicial resources to prosecute them.[70] Judge Solaesa deferred the decision on whether to take disciplinary action for these false statements until after the end of a contempt trial.[71]

- Robinson's regular email communications with Ngirabatware using clandestine and prohibited, contraband means of communication (cell phones which Ngirabatware was not allowed to have) while Ngirabatware was detained at the UNDF. Judge Solaesa established that these constitute violations of the Defence Code of Conduct, but deferred whether to take disciplinary action for these communications until after the end of trial.[72]

4. This case involves many protected witnesses from previous Mechanism/ICTR cases.

52. Given this case's very close nexus to the *Ngirabatware* genocide case, the *Ngirabatware* review case and the *Nzabonimpa* contempt case, a high number of witnesses relevant to the present case are protected by various measures ordered in these related cases.

53. While all referred cases may involve protected witnesses, the close link of the present case to three major Mechanism cases makes this consideration more important, in part because of the amount and extent of applicable protective measures.

---

68 *Ibid.*, para.30.

69 5-May-2016 Decision, para.13.

70 25-February-2025 Decision, paras.31-32.

71 *Ibid*.

72 25-February-2025 Decision, paras.33, 37.

54. It will be much more complex and burdensome for the California State Bar to deal with and respect these various protective measures than for the Mechanism. This is true whether or not witnesses ultimately testify in the disciplinary proceedings, since their identifying information is contained in the case file material. And it will be much simpler for the Mechanism to ensure the respect of these measures and react to potential breaches if the case is not referred, a consideration also relevant to the interests of justice.

5. The investigation is already completed and Amicus *knows the case.*

55. While this consideration affects all cases and cannot on its own be determinative of whether to refer the case, it also cannot be ignored when weighting all considerations. It is too important of a consideration, given the complexity and great amount of time that an investigation can take and the time spent by *Amicus* knowing the case. And the history of monitoring of referred contempt cases shows that it takes a very long time for action to be taken at the local level, if at all.[73]

56. *Amicus* investigated this case for more than two years, concerning complex, technical and voluminous evidence, after becoming acquainted with the large case record in the *Nzabonimpa* contempt case (of which this case is an extension), as well as material from the *Ngirabatware* review case and from outside these case records.

6. Most potential witnesses are located outside the USA.

57. The USA has only the smallest links to the commission of the crimes, with four of the eight violations only initiated by emails allegedly sent from the USA, while the four other violations were initiated in meetings/interviews in Africa. Most, if not all, of the resulting prohibited contacts with protected witnesses occurred in Rwanda – and none in the USA.[74] Other events and circumstances relevant to the charges are also not substantially connected to the USA.

---

[73] *Amicus* 5-September-2025 Submissions, paras.26-28.

[74] *Amicus* 15-April-2025 Submissions, para.13.

58. Many witnesses in previous connected ICTR/Mechanism cases are subject to protective measures which implies security concerns related to their cooperation in these proceedings.

59. *Amicus*' detailed investigation is completed, his case is streamlined, and the Indictment was tailored taking into consideration the expenditure of resources to include only the most serious violations, which is not the case at the California State Bar. Also, as further detailed below, in Mechanism criminal proceedings, instead of witness testifying orally in this case, adjudicated facts and authenticity of evidence from other Mechanism/ICTR cases can be taken judicial notice of, and transcripts of previous testimony in these cases can be admitted, and this does not appear to be the case in California State Bar proceedings insofar as Mechanism/ICTR evidence and adjudicated facts is concerned. The California proceedings would be even more complex, in not having various Mechanism tools to address these matters.

60. Investigating and securing witness evidence for the California State Bar proceedings would be even more complex, less expedient and protracted.

61. In addition to expediency, this consideration is also relevant to the interests of justice. It is doubtful that the California Bar could manage to secure all witness evidence. If African and other international witnesses don't cooperate voluntarily with Californian disciplinary proceedings, it is doubtful that the California Bar could secure governmental and international cooperation that may be required to secure witness evidence for what would be local administrative proceedings for misconduct, if the Bar has the will to spend the necessary resources to secure that evidence to start with. Given its various powers and tools, the Mechanism is much better situated to obtain and present highly relevant evidence.

62. Indeed, communications evidence including intercepted and extracted telephone communications and related foundational evidence from the *Nzabonimpa* case is needed to establish, among other things, that contacts with protected witnesses occurred as a result of some of Robinson's violations.

7. The alternative modes of presentation of evidence at the Mechanism.

63. At the Mechanism, Rules 110 and 111 allow for the admission of the transcript of testimony given before the Mechanism/ICTR/ICTY. Rule 115(b) allows for judicial notice of: 1) adjudicated facts; and 2) the authenticity of evidence, when either comes from other Mechanism/ICTR/ICTY cases, such as here.

64. Adjudicated facts from the closely-connected *Nzabonimpa* and *Ngirabatware* review cases will substantially reduce the evidence to be presented in this case. Facts can also be established through the admission of witnesses (or witness transcripts) who testified in connected cases.

65. In terms of laying the foundation of evidence, the authenticity of evidence from connected cases could be taken judicial notice of, or else the transcript of testimonies going to that authenticity could be admitted in this case, thereby substantially reducing the foundational evidence to be presented.

66. To the extent that evidence or adjudicated facts and evidentiary authenticity come from Mechanism/ICTR cases, there is no indication that similar rules or practices would apply to California bar proceedings. Rule 5.104(H) of the *Rules of Procedure of the State Bar of California* ("*Bar Rules*") allows judicial notice of court records "of any tribunal or court within the United States" (see paragraph (1) – emphasis added).[75] In terms of previous witness testimony, §6049.2 of the Chapter on attorneys of the *California Business and Professions Code* ("CBPC") allows for the admission of the transcript of "the testimony of a witness given in a contested civil action or special proceeding to which the person complained against is a party, or in whose behalf the action or proceeding is prosecuted or defended" (emphasis added). This does not include testimonies from Mechanism/ICTR cases. And Rule 5.103 of the *Bar Rules* states that "The State Bar must prove culpability by clear and convincing evidence".

[75] See also §450-452 of the California Code of Evidence, mentioned at Bar Rules 5.104(H)(4).

8. The case file, related-cases, protective measures, evidence and criminal charges can be more effectively and expeditiously managed at the Mechanism.

67. This case arises from conduct which took place as part of review proceedings and preparations thereto, regarding the convictions entered in another trial. This case is essentially an extension of the *Nzabonimpa* contempt case, in which five persons, including Robinson's investigator (acting on his instructions) were convicted in a massive obstruction of justice scheme. It is based on the review of the *Nzabonimpa* evidence during deliberations that Judge Joensen referred Robinson's misconduct for investigation.[76] Basically, Judge Joensen found grounds to believe that Robinson could have been an accused in *Nzabonimpa*, based on the case evidence. Right at the beginning of his investigation, *Amicus* gained access to the complex and voluminous *Nzabonimpa* case record, which served as a basis for the investigation and composes a substantial part of the evidence against Robinson.[77]

68. Whether it is because of this case evidence which comes from or is tightly connected to other Mechanism/ICTR cases, *Amicus*' familiarity with that evidence, access to and presentation of that evidence in this case, the very limited USA links with the facts of the case and the California's State Bar potential inability or unwillingness to deal with such a case and its evidence, the potential inability of the State Bar to investigate and secure witness evidence and adequately deal with protective measures, this case would be more effectively and expeditiously managed at the Mechanism.

---

[76] 20-September-2021 Order, p.3.

[77] Access Decision.

GROUND 4: The Single Judge made discernible errors by referring the case to the Office of Chief Trial Counsel of the California State Bar when its preparedness, willingness and competence to accept the case and adequately address Robinson's charged conduct as charged could not be, and was not established.

69. A competent jurisdiction's actual preparedness and demonstrated willingness to accept a case is explicitly required by Article 6(2)(c) of the Statute indicating where a case can be referred. In contrast, the USA's submissions concerning State Bar proceedings are limited, incomplete and speculative.

70. On 13-May-2025, the Single Judge invited the USA to provide "written submissions on its jurisdiction, willingness, and preparedness to accept this case for trial",[78] and ordered the Registry to provide the USA with this invitation, the 25-February-2025 Decision on Allegations of Contempt and the Indictment.

71. The USA Submissions were made by USA authorities through the USA Embassy in The Hague, and not by the California State Bar, which will act completely independently and separate from USA authorities "to discuss the relevant requirements and arrangements" for referral with the Mechanism.[79] The USA said that it has no criminal jurisdiction for taking the case, and even if it did, the case would likely be barred by the statute of limitations. As to the California State Bar disciplinary proceedings, the USA Submissions relayed the Bar's position and information, which was very limited and incomplete. All that can be said from the USA Submissions is that the State Bar confirmed having jurisdiction over the conduct of one of its members, and that relevant provisions regarding misconduct involve the violation of a court order and the failure "[t]o maintain the respect due to the courts of justice and judicial officers." The potential sanctions for such misconduct are also provided.[80] Whether the USA authorities transferred the 25-February-2025 Decision and Indictment to the Bar, or what information was given to the Bar, is unknown.

---

78 Invitation for Submissions, p.3.

79 USA Submissions, p.1.

80 *Ibid.*

72. The Single Judge specifically asked the USA for submissions on the preparedness and willingness of the USA to accept the case in his 13-May-2025 invitation. In response, the USA only indicated the Bar's position that it "may be possible to refer this matter to appropriate disciplinary proceedings", inviting the Mechanism to discuss "the relevant requirements".[81]

73. The Single Judge plainly erred in referring the case to the California State Bar when it's preparedness, willingness and competence was not and could not be established based on the USA Submissions, including whether the relevant requirements for referral were fulfilled and whether actual disciplinary proceedings would take place. This was a failure to take these considerations into account, an error of fact, and led to a decision to refer the case that is so unreasonable and unjust, in constituting an abuse of discretion.

74. A competent jurisdiction's preparedness and willingness to accept the case is explicitly required by Article 6(2)(c) of the Statute listing the jurisdictions where a case can be referred. Article 6(2)(a) states that a case can be referred where the crimes were committed. However, only four out of eight violations charged were initiated by emails allegedly sent from the USA, while the four other violations were initiated in Africa. And most, if not all, of the resulting contacts with protected witnesses regarding the eight violations occurred in Rwanda.[82]

75. In any case, as supported by jurisprudence, whichever paragraph of Article 6(2) is the basis for referral, actual willingness and preparedness to take the case forward are prerequisites for any referral because the Mechanism can't order a State to accept a case.[83] In addition, referring a case where the authorities are not prepared, willing and competent to take the case goes directly against the interests of justice and expediency.

---

81 *Ibid.*

82 *Amicus* 15-April-2025 Submissions, para.13.

83 Stanković, para.40; Rašević & Todović, para.88.

76. In practice, multiple requirements and considerations could affect the State Bar's preparedness, willingness and competence to accept the case, such as the time limits to initiate proceedings. The *Bar Rules* state, at Rule 5.21:

> (A) Time Limit for Complaint. If a disciplinary proceeding is based solely on a complainant's allegations of a violation of the State Bar Act [containing the relevant provisions of the CBPC[84]] or Rules of Professional Conduct, the initial pleading must be filed within the later of (1) five years from the date the violation occurred or (2) two years from the date the first complaint regarding the violation is submitted to the State Bar, so long as that complaint is submitted to the State Bar within five years from the date the violation occurred

77. This Rule says that the time limit can be extended if, among others, an investigation into or criminal proceedings into the same acts and circumstances are underway, but even considering *Amicus*' investigation and the present proceedings, it appears that Robinson's conduct falls outside the time limit of five years.[85] Rule 2403 of the *Bar Rules* provides a non-exhaustive list of "complainants", including a "member of the judiciary or legal professions who alleged misconduct by the attorney which is or should be the subject of an investigation".

78. Additional factors which could affect the Californian State Bar's preparedness, willingness and competence to accept the case include that the Bar is possibly not willing, prepared or able to secure the evidence of this case, whether for their investigation or disciplinary proceedings, given a large part of the facts of the case took place in faraway foreign jurisdictions, as explained in Ground 3.

79. Also, the law applicable at the State Bar may not include the attempt to violate an order, at the center of Count 2 against Robinson. The CBPC only addresses, at §6103, a "wilful disobedience or violation of an order" and its other provisions, as far as *Amicus* is aware, do not allow or provide for an attempt to violate an order. Similarly, the Indictment mentions for each of the violations that Robinson either intended or was "recklessly indifferent" that a prohibited contact would occur as a result of his conduct. It is not clear that the applicable law at the State Bar includes the reckless indifference standard for the violation of an order.

---

84 CBPC §6000; USA Submissions, fn.3.

85 Even stopping to count the time, *arguendo*, from Judge Joensen's 20-September-2021 Order referring Robinson's conduct to the President, seven of eight violations occurred before 20-September-2016 (five years before) and would fall outside the time-limit. *See* Rule 5.21(C)(3), Bar Rules.

Without attempt being a crime or the reckless indifference standard being applicable, the California Chief Trial Counsel, who may not have received and reviewed the Indictment and related 25-February-2025 Decision, may be unable to establish Robinson's culpability for the conduct charged in the Mechanism's Indictment.

V. RELIEF SOUGHT

Grounds 1, 2, 3 and 4, taken separately or together, demonstrate that the Single Judge committed discernible errors and failed to correctly exercise his discretion by referring the Mechanism's criminal case against Robinson to possible non-criminal State Bar disciplinary proceedings. *Amicus* respectfully asks the Appeals Chamber to reverse the Decision and order that the case be conducted at the Mechanism.

Word count: 8520 words

Respectfully submitted this 8-December-2025.

Kenneth Scott
Amicus Curiae

List of abbreviations and citations

From Case no. MICT-25-135-I, *In the Matter of Peter Robinson*

Abbreviations	Citations
Decision	Decision on the Suitability of Referral of the Case, 7-November-2025
Indictment	Decision Issuing Order in Lieu of Indictment, 25-February-2025
12-March-2025 Order	Order on Submissions, 12-March-2025
Invitation for Submissions	Invitation for Submissions, 13-May-2025
Amicus 26-March-2025 Submissions	*Amicus Curiae*'s Submissions on the Suitability of the Referral of the Case, 26-March-2025
Robinson 9-April-2025 Submissions	Preliminary Submissions on Referral, 9-April-2025
Amicus 15-April-2025 Submissions	*Amicus* Reply Submission on the Suitability of the Referral of the Case, 15-April-2025
USA Submissions	Submission of the United States on the Issue of Referral in Response to the Mechanism's Order of 13 May 2025, 1-August-2025
Amicus 29-August-2025 Submissions	*Amicus Curiae*'s Response to the Submissions of the United States of America on the Referral of the Case, 29-August-2025
Robinson 29-August-2025 Submissions	Response to the Submission of the United States of America, 29-August-2025
Robinson 5-September-2025 Submissions	Reply Re: Submissions of the United Stated of America, 5-September-2025
Amicus 5-September-2025 Submissions	*Amicus Curiae*'s Reply to Peter Robinson's Response to the Submissions of the United States of America on the Referral of the Case, 5-September-2025

From other Mechanism cases

Abbreviations	Citations
25-February-2025 Decision	*Prosecutor v. Nzabonimpa et al.*, MICT-18-116-R90.1, Decision on Allegations of Contempt, 25-February-2025
Judgement	*Prosecutor v. Nzabonimpa et al.*, MICT-18-116-T, Judgement, 25-June-2021
Review Judgement	*Prosecutor v. Ngirabatware*, MICT-12-29-R, Review Judgement, 27-September-2019
Appeals Judgement	*Prosecutor v. Fatuma et al.*, MICT-18-116-A, Judgement, 29-June-2022

20-September-2021 Order	*Prosecutor v. Nzabonimpa et al.*, MICT-18-116-T, Order Referring a Matter to the President, 20-September-2021
8-October-2021 Order	*Prosecutor v. Nzabonimpa et al.*, MICT-18-116-R90.1 & MICT-18-116-T, Order Assigning a Single Judge to Consider a Matter Pursuant to Rule 90(C), 8-October-2021
25-October-2021 Order	*Prosecutor v. Nzabonimpa et al.*, MICT-18-116-R90.1, Order Directing the Registrar to Appoint an *Amicus Curiae* to Investigate Pursuant to Rule 90(C)(ii), 25-October-2021
R76 Decision	*Prosecutor v. Nzabonimpa et al*., MICT-18-116-R90.1, Decision on Application of Lawyer-Client Privilege and Use of Material Subject to Rule 76 in Further Proceedings, 2-April-2024
Robinson's Statement	*Prosecutor v. Nzabonimpa et al.*, MICT-18-116-AR90.1, Public Redacted Version of "Respondent's Brief" Dated 15 May 2024, 5-May-2025, Annex A
Robinson's Appeal	*Prosecutor v. Nzabonimpa et al.*, MICT-18-116-AR90.1, Appeal of Decision on Allegations of Contempt, 3-March-2025
Access Decision	*Prosecutor v. Fatuma et al.*, MICT-18-116-A, Decision on *Amicus Curiae*'s Morion for Access and Requests for Clarification and Variation of Protective Measures, 21-January-2022

From ICTY and ICTR cases

Abbreviations	Citations
Šešelj	*Prosecutor v. Šešelj et al*., MICT-23-129-I, Decision on Referral of the Case to the Republic of Serbia, 29-February-2024
F.Ngirabatware	*In the matter of François Ngirabatware*, MICT-24-131-I, Decision on the Suitability of Referral of the Case, 17-September-2024
Jojić & Radeta	*Prosecutor v. Jojić & Radeta,* MICT-17-111-R90, Decision on Amicus Curiae's Appeal Against the Order Referring a Case to the Republic of Serbia, 12-December-2018
5-May-2016 Decision	*Prosecutor v. Ngirabatware*, MICT-12-29, Decision on Prosecution's Motion Regarding Protected Witnesses and Ngirabatware's Motion for Assignment of Counsel, 5-May-2016
Stanković	*Prosecutor v. Stanković*, IT-96-23/2-AR11bis.1, Decision on Rule 11*bis* Referral, 1-September-2005
Rašević & Todović	*Prosecutor v. Rašević & Todović* , IT-97-25/1-AR11*bis*.1 & IT-97-25/1-AR11*bis*.2, Decision on Savo Todović's Appeals Against Decisions on Referral Under Rule 11*bis*, 4-September-2006
Alekovski	*Prosecutor v. Aleksovski,* IT-95-14/1-AR77, Judgment on Appeal of Anto Nobilo against Finding of Contempt, 30-May-2001

Hategekimana	*The Prosecutor v. Hategekimana*, ICTR-00-55B-R11bis, Decision on the Prosecution's Appeal Against Decision on Referral under Rule 11*bis*, 4-December-2008
Munyarugarama	*Munyarugarama v. Prosecutor*, MICT-12-09-AR14, Decision on Appeal Against the Referral of Phénéas Munyarugarama's Case to Rwanda and Prosecution Motion to Strike, 5-October-2012
Mejakić	*Prosecutor v. Mejakić et al.,* IT-02-65-AT11bis.1, Decision on Joint Defence Appeal Against Decision on Referral under Rule 11bis, 7-April-2006

Others

Abbreviations	Citations / Sources
Amendments	Amendments to the Rules of Procedures and Evidence, MICT/1/Amend.9, 9-September-2025. Available at: https://www.irmct.org/sites/default/files/documents/MICT-1-Amend.9_Rules%2090_108_147_EN.pdf
22-October-2025 Address	Address to the United Nations General Assembly Judge Graciela Gatti Santana President, International Residual Mechanism for Criminal Tribunals, 22-October-2025. Available at: https://www.irmct.org/sites/default/files/statements-and-speeches/25-10-22%20IRMCT%20President%20Gatti%20Santana%20-%20Remarks%20to%20UNGA%2022%20October%202025%20-%20ENG_0.pdf
NCRPC	Rules of Professional Conduct of the North Carolina State Bar, 27 N.C.A.C. Chapter 2. Available at https://www.law.cornell.edu/regulations/north-carolina/title-27/chapter-02 and on North Carolina's State Bar website at https://www.ncbar.gov/for-lawyers/ethics/rules-of-professional-conduct/
RRNCSB	Rules and Regulations for the North Carolina State Bar, 27 N.C.A.C. Chapter 1. Available at https://www.law.cornell.edu/regulations/north-carolina/title-27/chapter-01 and on North Carolina State Bar website at https://www.ncbar.gov/for-lawyers/governing-rules-of-the-state-bar/
CBPC	California Business and Profession Code. Available at https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=BPC&tocTitle=+Business+and+Professions+Code+-+BPC
Bar Rules	Rules of Procedure of the State Bar of California, 19-September-2025. Available on the California State Bar website at https://www.statebarcourt.ca.gov/Portals/2/documents/Rules/Rules-of-Procedure.pdf

California Code of Evidence	California Code of Evidence. Available at https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=EVID&tocTitle=+Evidence+Code+-+EVID

UNITED NATIONS

Case No.: MICT-25-135-AR14.1

International Residual Mechanism for Criminal Tribunals

Date: 8 December 2025

Original: English

BEFORE THE APPEALS CHAMBER

Before: **Judge Graciela Gatti Santana, Presiding**
Judge Claudia Hoefer
Judge Margaret M. deGuzman

Registrar: **Mr. Abubacarr Tambadou**

IN THE MATTER OF PETER ROBINSON

PUBLIC

ANNEX A – BOOK OF AUTHORITIES

Amicus Curiae

Mr. Kenneth Scott

Mr. Peter Robinson

United States of America

State Bar of California

Chief Trial Counsel

BOOK OF AUTHORITIES

Table of contents

I. Sections 6000, 6049.2 and 6103, *California Business and Professions Code* ("CBPC")

STATE OF CALIFORNIA
LEGISLATIVE COUNSEL BUREAU
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

State of California

BUSINESS AND PROFESSIONS CODE

Section 6000

6000. This chapter of the Business and Professions Code constitutes the chapter on attorneys. It may be cited as the State Bar Act.

(Added by Stats. 1939, Ch. 34.)

STATE OF CALIFORNIA
LEGISLATIVE COUNSEL BUREAU
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

State of California

BUSINESS AND PROFESSIONS CODE

Section 6049.2

6049.2. In all disciplinary proceedings pursuant to this chapter, the testimony of a witness given in a contested civil action or special proceeding to which the person complained against is a party, or in whose behalf the action or proceeding is prosecuted or defended, may be received in evidence, so far as relevant and material to the issues in the disciplinary proceedings, by means of a duly authenticated transcript of such testimony and without proof of the nonavailability of the witness; provided, the State Bar Court may order the production of and testimony by such witness, in lieu of or in addition to receiving a transcript of his or her testimony and may decline to receive in evidence any such transcript of testimony, in whole or in part, when it appears that the testimony was given under circumstances that did not require or allow an opportunity for full cross examination.

(Amended by Stats. 2018, Ch. 659, Sec. 40. (AB 3249) Effective January 1, 2019.)

STATE OF CALIFORNIA
LEGISLATIVE COUNSEL BUREAU
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

State of California

BUSINESS AND PROFESSIONS CODE

Section 6103

6103. A wilful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney, constitute causes for disbarment or suspension.

(Added by Stats. 1939, Ch. 34.)

II. Excerpts from the *Rules of Procedure of the State Bar of California* ("Bar Rules") - Rules 5.21, 5.103, 5.104, 2403

Rules of Procedure of the State Bar of California

September 19, 2025

Rule 5.21 Limitations Period

(A) **Time Limit for Complaint**. If a disciplinary proceeding is based solely on a complainant's allegations of a violation of the State Bar Act or Rules of Professional Conduct, the initial pleading must be filed within the later of (1) five years from the date the violation occurred or (2) two years from the date the first complaint regarding the violation is submitted to the State Bar, so long as that complaint is submitted to the State Bar within five years from the date the violation occurred.

(B) **When Violation Occurs**. A violation of the State Bar Act or a Rule of Professional Conduct occurs when every element of a violation has occurred. But if the violation is a continuing offense, the violation occurs when the offensive conduct ends.

(C) **Tolling.** The time limit for the filing of an initial pleading under section (A) above is tolled:

(1) while the attorney represents or otherwise owes a fiduciary duty to the complainant, or the complainant's family member, business, or employer;

(2) while the complainant is a minor, insane, or physically or mentally incapacitated;

(3) while civil, criminal, or administrative investigations or proceedings based on the same acts or circumstances as the violation, including but not limited to proceedings seeking to determine whether a violation has occurred, the scope of the violation, the harm resulting from the violation, or any actions to be taken to remediate the violation, including efforts to collect funds owed as the result of the violation, are pending with any governmental agency, court, or tribunal;

(4) from the time the attorney conceals facts about the violation until the State Bar or the victim of the violation discovers the true facts;

(5) from the time the attorney fails to cooperate with the State Bar's investigation of the violation until the attorney provides substantial cooperation with the State Bar's investigation;

(6) from the time the attorney makes false or misleading statements to the State Bar concerning the violation until the State Bar discovers the true facts;

(7) while the disciplinary investigation or proceeding is abated under rule 5.50;

(8) while the attorney is participating in an Alternative Dispute Resolution Mediation Discipline program, Agreement in Lieu of Discipline Prosecution program, or other authorized diversion program concerning the violation;

(9) while the investigation of the violation is ended by admonition given pursuant to rule 5.126 or 2602;

(10) while the Office of Chief Trial Counsel's decision to close the complaint without the filing of an initial pleading is under review by the Office of General Counsel Complaint Review Unit or an equivalent review unit within the State Bar, or the State Bar's decision to close the complaint without the filing of an initial pleading is under review by the California Supreme Court and for any additional period necessary to provide the State Bar with two years to file an initial pleading following the later of the conclusion of review by the Office of General Counsel Complaint Review Unit or equivalent review unit within the State Bar or the conclusion of review by the California Supreme Court; or

(11) while the attorney is on inactive status pursuant to Business and Professions Code section 6007, subdivision (a) or (b).

(D) **Authorized Diversion Program**. If the attorney successfully completes an Alternative Dispute Resolution Mediation Discipline program, Agreement in Lieu of Discipline Prosecution program, or other authorized diversion program concerning the violation, the State Bar will be barred from filing an initial pleading alleging the violation.

(E) **Initial Pleading After Review**. The State Bar must file an initial pleading within two years after the later of (1) the Office of General Counsel Complaint Review Unit or an equivalent review unit within the State Bar concluding its review of the Office of Chief Trial Counsel's decision to close the complaint without the filing of an initial pleading; or (2) the California Supreme Court concluding its review of the State Bar's decision to close the complaint without the filing of an initial pleading.

(F) **Death of Complainant**. If a prospective complainant dies before the time to begin a disciplinary procedure expires, a surviving family member of the complainant, or the complainant's estate's executor or administrator, may file a complaint with the State Bar within two years after the complainant's death and if such a complaint is filed an initial pleading initiating a disciplinary proceeding based on that complaint must be filed within two years after the filing of the complaint with the State Bar.

(G) **Independent Source**. Independent Source. The five-year limit does not apply to disciplinary proceedings that were investigated and initiated by the State Bar based on information received from an independent source other than a complainant.

(H) **Waiver**. The attorney and State Bar may agree in writing to waive or extend the limitations in this rule.

(I) **Reinstatement Proceedings**. This rule does not apply to reinstatement proceedings.

(J) **Retroactive Application.** The amendments to this rule adopted March 24, 2022, shall apply retroactively to any initial pleading the filing of which would, as of March 24, 2022, have been within the time limit imposed by this rule prior to the March 24, 2022 amendments.

Eff. January 1, 2011; Revised: July 20, 2018; January 25, 2019; April 4, 2022.

Rule 5.103 The State Bar's Burden of Proof

The State Bar must prove culpability by clear and convincing evidence.

Rule 5.104 Evidence

(A) **Oral Evidence.** Oral evidence must be taken only on oath or affirmation.

(B) **Rights of Parties.** Each party will have these rights:

(1) to call and examine witnesses;

(2) to introduce exhibits;

(3) to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination;

(4) to impeach any witness regardless of which party first called him or her to testify;

(5) to rebut the evidence against him or her; and,

(6) if the attorney does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination.

(C) **Relevant and Reliable Evidence.** The hearing need not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence must be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

(D) **Hearsay.** Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but over timely objection will not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(E) **Privileges.** The rules of privilege will be effective to the extent that they are otherwise required by statute to be recognized at the hearing.

(F) **Judicial Discretion.** The hearing judge has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(G) **Letters of Inquiry.**

(1) Proof that the Office of Chief Trial Counsel sent an e-mail notification to an attorney in compliance with rule 2409(a), Rules of Procedure of the State Bar, coupled with proof that the e-mail was not returned as undeliverable, creates a presumption affecting the burden of producing evidence that the attorney viewed the e-mail on or about the date it was sent.

(2) Proof that a letter of inquiry was remotely accessed on an attorney's "My State Bar Profile" on a given date creates a presumption affecting the burden of producing evidence that the attorney received the letter of inquiry on that date.

(3) The Office of Chief Trial Counsel may establish the proof necessary under paragraphs (i) and (ii) by submitting copies of State Bar records, supported by declarations(s) of State Bar staff attesting to the authenticity and nature of the records.

(H) Judicial Notice of Court Records and Public Records.

(1) For purposes of this rule, "court records" means pleadings, declarations, attachments, dockets, reporter's transcripts, clerk's transcripts, minutes, orders, and opinions that have been filed with the clerk of any tribunal or court within the United States.

(2) The State Bar Court may take judicial notice of the following:

(a) court records that have been certified by the clerk of the court or tribunal;

(b) non-certified court records of the State Bar Court;

(c) non-certified orders of the California Supreme Court in attorney disciplinary cases;

(d) non-certified court records that have been copied from the tribunal or court's official file and timely provided to the opposing party during the course of formal or informal discovery. The party offering such records must provide a declaration stating the date on which the documents were copied and certifying that the documents presented to the State Bar Court are an accurate copy of the court records obtained from the court's official file; and

(e) non-certified court records that have been copied from a public access website operated by a court or government agency for the purpose of posting official public records or court records, e.g., the federal court website called "Public Access to Court Electronic Records" and more commonly known as PACER. The party offering such records must provide a declaration stating the date on which the documents were copied and certifying that the documents presented to the State Bar Court are an accurate copy of the court records obtained from the website.

(3) The State Bar Court must take judicial notice of the records mentioned in paragraph (2) if they are relevant to the proceeding unless a party proves, e.g., through certified records, that the proffered records are incomplete or not authentic.

(4) This rule is not intended to limit the judicial notice provisions contained in Evidence Code, section 450 et seq.

Eff. January 1, 2011; Revised May 18, 2018; January 1, 2019; January 25, 2019.

Rule 2403. COMPLAINT

The Complainant is entitled to receive relevant information pursuant to the provisions of the State Bar Act or the Rules of Procedure of the State Bar of California. In matters where communications from more than one person concern the same or substantially the same underlying conduct of the attorney, there may be more than one complainant. The complainant may be, but is not limited to:

(a) a current or former client;

(b) one complaining on behalf of a current or former client;

(c) one owed or was owed a fiduciary duty and an alleged breach of the fiduciary duty is or should be a subject of the investigation;

(d) member of the judiciary or legal professions who alleged misconduct by the attorney which is or should be the subject of an investigation;

(e) a person who has significant new information about an alleged ethical violation committed by the attorney affecting the professions, the administration of justice, or the public.

Eff. January 1, 1996; Revised January 25, 2019.
Source: New.

III. Sections 450 to 452 of the *California Evidence Code*

STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

State of California

EVIDENCE CODE

Section 450

---

450. Judicial notice may not be taken of any matter unless authorized or required by law.

(Enacted by Stats. 1965, Ch. 299.)

STATE OF CALIFORNIA
LEGISLATIVE COUNSEL BUREAU
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

State of California

EVIDENCE CODE

Section 451

---

451. Judicial notice shall be taken of the following:

(a) The decisional, constitutional, and public statutory law of this state and of the United States and the provisions of any charter described in Section 3, 4, or 5 of Article XI of the California Constitution.

(b) Any matter made a subject of judicial notice by Section 11343.6, 11344.6, or 18576 of the Government Code or by Section 1507 of Title 44 of the United States Code.

(c) Rules of professional conduct for members of the bar adopted pursuant to Section 6076 of the Business and Professions Code and rules of practice and procedure for the courts of this state adopted by the Judicial Council.

(d) Rules of pleading, practice, and procedure prescribed by the United States Supreme Court, such as the Rules of the United States Supreme Court, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Admiralty Rules, the Rules of the Court of Claims, the Rules of the Customs Court, and the General Orders and Forms in Bankruptcy.

(e) The true signification of all English words and phrases and of all legal expressions.

(f) Facts and propositions of generalized knowledge that are so universally known that they cannot reasonably be the subject of dispute.

(Amended by Stats. 1986, Ch. 248, Sec. 43.)

STATE OF CALIFORNIA
LEGISLATIVE COUNSEL BUREAU
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

State of California

EVIDENCE CODE

Section 452

---

452. Judicial notice may be taken of the following matters to the extent that they are not embraced within Section 451:

(a) The decisional, constitutional, and statutory law of any state of the United States and the resolutions and private acts of the Congress of the United States and of the Legislature of this state.

(b) Regulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States.

(c) Official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.

(d) Records of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.

(e) Rules of court of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.

(f) The law of an organization of nations and of foreign nations and public entities in foreign nations.

(g) Facts and propositions that are of such common knowledge within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute.

(h) Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

(Enacted by Stats. 1965, Ch. 299.)

IV. § 0.120 of the *Rules and Regulations for the North Carolina State Bar*, 27 N.C.A.C. Chapter 1 ("RRNCSB")

27 N.C. Admin. Code 01B .0120 - RECIPROCAL DISCIPLINE AND DISABILITY PROCEEDINGS

(a) Notice to Secretary - All members who have been disciplined in any state or federal court for a violation of the Rules of Professional Conduct in effect in such state or federal court or who have been transferred to disability inactive status or its equivalent by any state of federal court will inform the secretary of such action in writing no later than 30 days after entry of the order of discipline or transfer to disability inactive status. Failure to make the report required in this paragraph may subject the member to professional discipline as set out in Rule 8.3 of the Revised Rules of Professional Conduct.

(b) Administration of Reciprocal Discipline - Except as provided in Paragraph (c) of this Rule which applies to disciplinary proceedings in certain federal courts, reciprocal discipline and disability proceedings will be administered as follows:

(1) Notice and Challenge - Upon receipt of a certified copy of an order demonstrating that a member has been disciplined or transferred to disability inactive status or its equivalent in another jurisdiction, state or federal, the Grievance Committee will forthwith issue a notice directed to the member containing a copy of the order from the other jurisdiction and an order directing that the member inform the committee within 30 days from service of the notice of any claim by the member that the imposition of the identical discipline or an order transferring the member to disability inactive status in this state would be unwarranted and the reasons therefor. This notice is to be served on the member in accordance with the provisions of Rule 4 of the North Carolina Rules of Civil Procedure.

(2) Effect of Stay - If the discipline or transfer order imposed in the other jurisdiction has been stayed, any reciprocal discipline or transfer to disability inactive status imposed in this state will be deferred until such stay expires.

(3) Imposition of Discipline - Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of Rule .0120(b)(1) above, the chairperson of the Grievance Committee will impose the identical discipline or enter an order transferring the member to disability inactive status unless the Grievance Committee concludes:

(A) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(B) there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Grievance Committee could not, consistent with its duty, accept as final the conclusion on that subject; or

(C) that the imposition of the same discipline would result in grave injustice; or

(D) that the misconduct established warrants substantially different discipline in this state; or

(E) that the reason for the original transfer to disability inactive status no longer exists.

(4) Dismissal - Where the Grievance Committee determines that any of the elements listed in Rule .0120(b)(3) above exist, the committee will dismiss the case or direct that a complaint be filed.

(5) Effect of Final Adjudication in Another Jurisdiction - If the elements listed in Rule .0120(b)(3) above are found not to exist, a final adjudication in another jurisdiction that an attorney has been guilty of misconduct or should be transferred to disability inactive status will establish the misconduct or disability for purposes of reciprocal discipline or disability proceedings in this state.

(c) Reciprocal Discipline in the District of North Carolina, Fourth Circuit, or US Supreme Court - Reciprocal discipline with certain federal courts will be administered as follows:

(1) Notice and Challenge - Upon receipt of a certified copy of an order demonstrating that a member has been disciplined in a United States District Court in North Carolina, in the United States Fourth Circuit Court of Appeals, or in the United States Supreme Court, the chairperson of the Grievance Committee will forthwith issue a notice directed to the member. The notice will contain a copy of the order from the court and an order directing the member to inform the committee within 10 days from service of the notice whether the member will accept reciprocal discipline which is substantially similar to that imposed by the federal court. This notice is to be served on the member in accordance with the provisions of Rule 4 of the North Carolina Rules of Civil Procedure. The member will have 30 days from service of the notice to file a written challenge with the committee on the grounds that the imposition of discipline by the North Carolina State Bar would be unwarranted because the facts found in the federal disciplinary proceeding do not involve conduct which violates the North Carolina Rules of Professional Conduct. If the member notifies the North Carolina State Bar within 10 days after service of the notice that he or she accepts reciprocal discipline which is substantially similar to that imposed by the federal court, substantially similar discipline will be ordered as provided in Rule .0120(c)(2) below and will run concurrently with the discipline ordered by the federal court.

(2) Acceptance of Reciprocal Discipline - If the member notifies the North Carolina State Bar of his or her acceptance of reciprocal discipline as provided in Rule .0120(c)(1) above the chairperson of the Grievance Committee will execute an order of discipline which is of a type permitted by these rules and which is substantially similar to that ordered by the federal court and will cause said order to be served upon the member.

(3) Effect of Stay - If the discipline imposed by the federal court has been stayed, any reciprocal discipline imposed by the North Carolina State Bar will be deferred until such stay expires.

(4) Imposition of Discipline - Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of Rule .0120(c)(1) above, the chairperson of the Grievance Committee will enter an order of reciprocal discipline imposing substantially similar discipline of a type permitted by these Rules to be effective throughout North Carolina unless the member requests a hearing before the Grievance Committee and at such hearing:

(A) the member demonstrates that the facts found in the federal disciplinary proceeding did not involve conduct which violates the North Carolina Rules of Professional Conduct, in which event the case will be dismissed; or

(B) the Grievance Committee determines that the discipline imposed by the federal court is not of a type described in Rule .0127(a) of this subchapter and, therefore, cannot be imposed by the North Carolina State Bar, in which event the Grievance Committee may dismiss the case or direct that a complaint be filed in the commission.

(5) Federal Findings of Fact - All findings of fact in the federal disciplinary proceeding will be binding upon the North Carolina State Bar and the member.

(6) Discipline Imposed by Other Federal Courts - Discipline imposed by any other federal court will be administered as provided in Rule .0120(b) above.

(d) Imposition of Discipline - If the member fails to accept reciprocal discipline as provided in Rule .0120(c) above or if a hearing is held before the Grievance Committee under either Rule .0120(b) above or Rule .0120(c) above and the committee orders the imposition of reciprocal discipline, such discipline will run from the date of service of the final order of the chairperson of the Grievance Committee unless the committee expressly provides otherwise.

Notes

27 N.C. Admin. Code 01B .0120
Authority G.S. 84-23; 84-28;
Readopted Eff. December 8, 1994;
Amendments Approved by the Supreme Court: September 22, 2016; December 30, 1998; March 7, 1996.
Authority G.S. 84-23;
Readopted Eff. December 8, 1994.

V. Rule 8.04 of the *Rules of Professional Conduct of the North Carolina State Bar*, 27 N.C.A.C. Chapter 2 ("NCRPC")

27 N.C. Admin. Code 02 RULE 8.04 - MISCONDUCT

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation that reflects adversely on the lawyer's fitness as a lawyer;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official;

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or

(g) intentionally prejudice or damage his or her client during the course of the professional relationship, except as may be required by Rule 3.3.
Comment

[1] Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Paragraph (a), however, does not prohibit a lawyer from advising a client or, in the case of a government lawyer, investigatory personnel, of action the client, or such investigatory personnel, is lawfully entitled to take.

[2] Many kinds of illegal conduct reflect adversely on a lawyer's fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Although a lawyer is personally answerable to the entire criminal law, a lawyer

should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation. A lawyer's dishonesty, fraud, deceit, or misrepresentation is not mitigated by virtue of the fact that the victim may be the lawyer's partner or law firm. A lawyer who steals funds, for instance, is guilty of the most serious disciplinary violation regardless of whether the victim is the lawyer's employer, partner, law firm, client, or a third party.

[3] The purpose of professional discipline for misconduct is not punishment, but to protect the public, the courts, and the legal profession. Lawyer discipline affects only the lawyer's license to practice law. It does not result in incarceration. For this reason, to establish a violation of paragraph (b), the burden of proof is the same as for any other violation of the Rules of Professional Conduct: it must be shown by clear, cogent, and convincing evidence that the lawyer committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer. Conviction of a crime is conclusive evidence that the lawyer committed a criminal act although, to establish a violation of paragraph (b), it must be shown that the criminal act reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer. If it is established by clear, cogent, and convincing evidence that a lawyer committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, the lawyer may be disciplined for a violation of paragraph (b) although the lawyer is never prosecuted or is acquitted or pardoned for the underlying criminal act.

[4] A showing of actual prejudice to the administration of justice is not required to establish a violation of paragraph (d). Rather, it must only be shown that the act had a reasonable likelihood of prejudicing the administration of justice. For example, in State Bar v. DuMont, 52 N.C. App. 1, 277 S.E.2d 827 (1981), modified on other grounds, 304 N.C. 627, 286 S.E.2d 89 (1982), the defendant was disciplined for advising a witness to give false testimony in a deposition even though the witness corrected his statement prior to trial. Conduct warranting the imposition of professional discipline under paragraph (d) is characterized by the element of intent or some other aggravating circumstance. The phrase "conduct prejudicial to the administration of justice" in paragraph (d) should be read broadly to proscribe a wide variety of conduct, including conduct that occurs outside the scope of judicial proceedings. In State Bar v. Jerry Wilson, 82 DHC 1, for example, a lawyer was disciplined for conduct prejudicial to the administration of justice after forging another individual's name to a guarantee agreement, inducing his wife to notarize the forged agreement, and using the agreement to obtain funds.

[5] Threats, bullying, harassment, and other conduct serving no substantial purpose other than to intimidate, humiliate, or embarrass anyone associated with the judicial process including judges, opposing counsel, litigants, witnesses, or court personnel violate the prohibition on conduct prejudicial to the administration of justice. When directed to opposing counsel, such conduct tends to impede opposing counsel's ability to represent his or her client effectively. Comments "by one lawyer tending to disparage the personality or

performance of another...tend to reduce public trust and confidence in our courts and, in more extreme cases, directly interfere with the truth-finding function by distracting judges and juries from the serious business at hand." State v. Rivera, 350 N.C. 285, 291, 514 S.E.2d 720, 723 (1999). See Rule 3.5, cmt. [10] and Rule 4.4, cmt. [2].

[6] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of Rule 1.2(d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

[7] Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

Notes

27 N.C. Admin. Code 02 RULE 8.04
Authority G.S. 84-23;
Adopted by the Supreme Court: July 24, 1997;
Amendments Approved by the Supreme Court: March 1, 2003; March 5, 2015; September 28, 2017.
Authority G.S. 84-23;
Eff. July 24, 1997'
Amended Eff. February 27, 2003.

State Regulations Toolbox

UNITED NATIONS
International Residual Mechanism
for Criminal Tribunals

NATIONS UNIES
Mécanisme international appelé à exercer
les fonctions résiduelles des Tribunaux pénaux

IRMCT · MIFRTP

TRANSMISSION SHEET FOR FILING OF DOCUMENTS / *FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS*

I - FILING INFORMATION / *INFORMATIONS GÉNÉRALES*

To/ *À* : IRMCT Registry/ *Greffe du MIFRTP* ☒ Arusha/ *Arusha* ☐ The Hague/ *La Haye*

From/ *De* : ☐ President/ *Président* ☐ Chambers/ *Chambre* ☐ Prosecution/ *Bureau du Procureur* ☐ Defence/ *Défense* ☐ Registrar/ *Greffier* ☒ Other/ *Autre* (**Amicus**)

Case Name/ *Affaire* : **In the Matter of Peter Robinson** **Case Number/ *Affaire n°* :** **MICT-25-135-AR14.1**

Date Created/ *Daté du* : **8 December 2025** **Date transmitted/ *Transmis le* :** **8 December 2025** **Number of Pages/ *Nombre de pages* :** **57**

Original Language/ *Langue de l'original :* ☒ English/ *Anglais* ☐ French/ *Français* ☐ Kinyarwanda ☐ B/C/S ☐ Other/*Autre* (specify/ *préciser*):

Title of Document/ *Titre du document* : **Appeal Brief Regarding Decision to Refer the Case**

Classification Level/ *Catégories de classification :*

☒ Public/ *Document public*

☐ Confidential/ *Confidentiel*

☐ *Ex Parte* Defence excluded/ *Défense exclue*
☐ *Ex Parte* Prosecution excluded/ *Bureau du Procureur exclu*
☐ *Ex Parte* Rule 86 applicant excluded/ *Article 86 requérant exclu*
☐ *Ex Parte* Amicus Curiae excluded/ *Amicus curiae exclu*
☐ *Ex Parte* other exclusion/ *autre(s) partie(s) exclue(s)* :

Document type/ *Type de document* :

☒ Motion/ *Requête*
☐ Decision/ *Décision*
☐ Order/ *Ordonnance*
☐ Judgement/ *Jugement/Arrêt*
☐ Submission from parties/ *Écritures déposées par des parties*
☐ Submission from non-parties/ *Écritures déposées par des tiers*
☐ Book of Authorities/ *Recueil de sources*
☐ Affidavit/ *Déclaration sous serment*
☐ Indictment/ *Acte d'accusation*
☐ Warrant/ *Mandat*
☐ Notice of Appeal/ *Acte d'appel*

II - TRANSLATION STATUS ON THE FILING DATE/ *ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT*

☐ Translation not required/ *La traduction n'est pas requise*

☒ Filing Party hereby submits only the original, and requests the Registry to translate/
La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction :
(Word version of the document is attached/ *La version Word du document est jointe)*

☐ English/ *Anglais* ☒ French/ *Français* ☐ Kinyarwanda ☐ B/C/S ☐ Other/*Autre* (specify/*préciser*):

☐ Filing Party hereby submits both the original and the translated version for filing, as follows/
La partie déposante soumet l'original et la version traduite aux fins de dépôt, comme suit :

Original/ *Original en :* ☐ English/ *Anglais* ☐ French/ *Français* ☐ Kinyarwanda ☐ B/C/S ☐ Other/*Autre* (specify/ *préciser*):

Traduction/ *Traduction en :* ☐ English/ *Anglais* ☐ French/ *Français* ☐ Kinyarwanda ☐ B/C/S ☐ Other/*Autre* (specify/ *préciser*):

☐ Filing Party will be submitting the translated version(s) in due course in the following language(s)/
La partie déposante soumettra la (les) version(s) traduite(s) sous peu, dans la (les) langue(s) suivante(s):

☐ English/ *Anglais* ☐ French/ *Français* ☐ Kinyarwanda ☐ B/C/S ☐ Other/*Autre* (specify/*préciser*):